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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,545	08/01/2003	Michael F. Brletich	12539	2681

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PAUL F. DONOVAN
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EXAMINER

GARCIA, ERNESTO

ART UNIT	PAPER NUMBER
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3679

MAIL DATE	DELIVERY MODE
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09/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/632,545

Applicant(s)

BRLETICH ET AL.

Examiner

Ernesto Garcia

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11-14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 1,3-9 and 11-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

The indicated allowability of claim 9 is withdrawn in view of an obvious modification to Antonucci et al., 6,119,306, and a broader interpretation of claim 9 against Kwilosz, 6,799,931. Prosecution is being reopened so that the references can be applied accordingly.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

The drawings are objected to because the solid black shading in Figures 9-11 and 12 is not permitted. See 37 CFR 1.84(m).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and

appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

Claims 9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kwilosz, 6,799,931.

Regarding claim 9, Kwilosz discloses, in Figures 5 and 6, a device comprising a fastener plug **10** including an end cap **200** and at least one disc **12** spaced apart from the end cap **200**. The fastener plug **10** defines a flexible extension member **22** extending outwardly from the end cap **200** and across the at least one disc **12**. The flexible extension member **22** has a fixed end connected to the end cap **200** and a free end opposite the fixed end. The free end includes an aperture engaging-member (the curved end portion). The end cap **200** defines a peripheral edge. A flat truncated surface **202** is along the peripheral edge.

Regarding claim 11, a rib **A1** (see marked-up attachment) connects the disc **12** to the end cap **200**.

Claim Rejections - 35 USC § 103

Claims 1, 3-9 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Antonucci et al., 6,119,306.

Regarding claim 9, Antonucci et al. disclose, in Fig. 35, a device comprising a fastener plug **13** including an end cap **20'** and at least one disc **28** spaced apart from the end cap **20'**. The fastener plug **13** defines a flexible extension member **27** extending outwardly from the end cap **20'** and across the at least one disc **28**. The flexible extension member **27** has a fixed end connected to the end cap **20'** and a free end opposite the fixed end. The free end includes an aperture engaging-member **26'**. The end cap **20'** defines a peripheral edge. However, Antonucci et al., fails to disclose a flat truncated surface along the peripheral edge. Applicants are reminded that changing the shape of the end cap to include a flat truncated surface is an obvious modification since changing the shape in Antonucci et al. is not critical to practicing the invention and one skilled in the art at the time the invention was made would have changed the configuration to a polygonal head or a non-round configuration to align the aperture engaging-member along the flat truncated member to locate the orientation of the aperture engaging-member as compared to the rib (unreferenced) on the end cap.

Regarding claim 1, the fastener plug **13** includes a plug portion **20'** and a fastener portion **24**. The plug portion **20'** defines the end cap **20'** and the at least one disc **28**. The fastener portion **24** defines the flexible extension member **27**. The end cap **20'** includes at least one retaining wall **A50** (see marked-up attachment) extending outwardly from an inner surface **A51** of the end cap **20'**. The projecting member **26'** is a projecting member.

Regarding claims 3 and 11, a rib **A1** (see marked-up attachment) connects the disc **28** to the end cap **20'**.

Regarding claims 4 and 12, the disc **28** is a plurality of discs **28** spaced apart from the end cap **20'**.

Regarding claims 5 and 13, the extension member **27** extends upwardly from the end cap **20'**.

Regarding claims 6 and 14, the extension member **27** extends across the discs **28**.

Regarding claim 7, the discs **28** define a flat surface edge **A2**.

Regarding claim 8, the projection member **26'** defines an inclined surface **A3**.

Allowable Subject Matter

Claim 16 is allowed.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 16, the prior art of record does not disclose or suggest a device comprising an aperture-engaging member defining opposing columns joined together by a rib; there is no motivation absent applicant's own disclosure to modify the references because no one teaches the subject matter to facilitate insertion and removal of the aperture-engaging member within and out of an opening formed in a trashcan bar. The closest prior art, Antonucci et al., 6,119,306, teaches a wedge as the aperture-engaging member.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sullivan, 5,387,065, and Dewitt et al., 6,740,812, also teaches a flexible extension member extending outwardly from an end cap across and spaced apart from at least one disc.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

E.L.

E.G.

August 22, 2007

Attachment: one marked-up page of Antonucci et al., 6,119,306



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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

FIG. 40